
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 11-965-JST (ANx)

Date: August 24, 2011

Title: Ann Mohr, et al. v. East West Bank, et al.

Present: **Honorable JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT JUDGE**

Nancy Boehme
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY THIS
CASE SHOULD NOT BE DISMISSED FOR LACK OF
SUBJECT MATTER JURISDICTION**

The Court may raise the issue of subject matter jurisdiction at any time, sua sponte. *See U.S. Catholic Conference v. Abortion Rights Mobilization*, 487 U.S. 72, 79 (1988). “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3).

Generally, subject matter jurisdiction is based on the presence of complete diversity between the parties, *see* 28 U.S.C. § 1332, or on the presence of an action arising under federal law, *see* 28 U.S.C. § 1331. The determination as to whether the case “arises under” federal law is governed by the “well-pleaded complaint rule,” which provides that “federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (citing *Gully v. First Nat’l Bank*, 299 U.S. 109, 112-13 (1936)).

Here, Plaintiffs allege federal subject matter jurisdiction under 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. § 1983. (Compl. ¶ 12, Doc. 1.) However, Plaintiffs’ causes of action are all, on their face, based on state common law or state statute. (*Id.* ¶¶ 86-128.) Therefore, Plaintiffs have failed to establish federal subject matter jurisdiction.

For the reasons set forth above, the Court ORDERS:

- 1) Plaintiffs shall show cause in writing no later than **September 6, 2011** why this action should not be dismissed without prejudice for lack of subject matter jurisdiction. Failure to respond by the above date will result in the Court dismissing this action.

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- 2) The hearing on the Motion to Dismiss filed by Defendants East West Bank and East West Investment, Inc. set for **August 29, 2011** is VACATED. If consideration of Defendants' Motion to Dismiss remains necessary after the Court discharges Plaintiffs' order to show cause, the parties need not re-file their motion, opposition, reply, or accompanying documents, but Defendants shall file and serve a revised notice of motion setting the hearing on the motion at least two weeks after the Court issues its order.
- 3) The hearing on the Motion to Dismiss filed by Defendant T.D. Service Company set for **October 3, 2011** is VACATED. If consideration of the Motion to Dismiss remains necessary after the Court discharges Plaintiffs' order to show cause, Defendant need not re-file its motion and accompanying documents, but shall file and serve a revised notice of motion setting the hearing on the motion at least 28 days later in accordance with Local Rule 6-1.

Initials of Preparer: nkb